

## **RULE 106. DEFENSES**

**(a) Defenses to be Asserted.** Every defense, in law or fact, shall be asserted in the responsive pleading except that the following defenses may be asserted by motion: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) improper venue; (4) insufficiency of process; and (5) insufficiency of service of process.

**(b) Waiver or Preservation of Certain Defenses.** A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service is waived if omitted from a responsive pleading or not made by motion. Whenever the court finds that it lacks jurisdiction over the subject matter, the court shall dismiss the action.

### **Advisory Note - July 2016**

Changes were made to 106(a) to correct typographical errors.

### **Advisory Notes June 2008**

Rule 106, subdivision (a) is derived from Rule 12(b). It is more limited than 12(b), addressing only those defenses that may apply to Family Division actions.

Subdivision (b) is based on Rule 12(h).